

SB0138S02 compared with SB0138

~~{deleted text}~~ shows text that was in SB0138 but was deleted in SB0138S02.

Inserted text shows text that was not in SB0138 but was inserted into SB0138S02.

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Senator Deidre M. Henderson proposes the following substitute bill:

METRO TOWNSHIP AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Karen Mayne

House Sponsor: ~~{ }~~ Eric K. Hutchings

LONG TITLE

General Description:

This bill modifies provisions related to metro townships.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies the authority of a metro township that is included in a municipal services district to enact certain ordinances;
- ▶ addresses the budget of a metro township that is included in a municipal services district;
- ▶ ~~{addresses}~~ includes metro townships as a specified local body in the Open and Public Meetings Act for purposes of written minutes and ~~{recording requirements for}~~ audio recordings of a public meeting of a metro township council;

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- ▶ requires a municipality located within a municipal services district to remit to the municipal services district certain funds that the municipality receives;
- ▶ modifies provisions regarding the local sales tax distribution for metro townships; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

10-3b-504, as repealed and reenacted by Laws of Utah 2015, Chapter 352

10-3c-202, as enacted by Laws of Utah 2015, Chapter 352

10-3c-203, as last amended by Laws of Utah 2016, Chapters 176 and 348

17B-2a-1108, as enacted by Laws of Utah 2014, Chapter 405

52-4-203, as last amended by Laws of Utah 2014, Chapter 83

53-2a-102, as renumbered and amended by Laws of Utah 2013, Chapter 295

59-12-203, as last amended by Laws of Utah 2015, Chapter 352

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-3b-504** is amended to read:

10-3b-504. Council in a metro township that is included in a municipal services district.

(1) The council in a metro township that is included in a municipal services district:

(a) exercises any executive or administrative power and performs or supervises the performance of any executive or administrative power, duty, or function that has not been given to the chair under Section 10-3b-503 unless the council removes that power, duty, or function from the chair in accordance with Subsection (2);

(b) may:

(i) subject to Subsections (1)(c) and (2), adopt an ordinance:

(A) removing from the chair any power, duty, or function of the chair; and

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(B) reinstating to the chair any power, duty, or function previously removed under Subsection (1)(b)(i)(A); and

(ii) adopt an ordinance delegating to the chair any executive or administrative power, duty, or function that the council has under Subsection (1)(a); and

(c) may not remove from the chair or delegate:

(i) any of the chair's legislative or judicial powers or ceremonial functions;

(ii) the chair's position as chair of the council; or

(iii) any ex officio position that the chair holds.

(2) Adopting an ordinance under Subsection (1)(b)(i) removing from or reinstating to the chair a power, duty, or function provided for in Section 10-3b-503 requires the affirmative vote of:

(a) the chair and a majority of all other council members; or

(b) all council members except the chair.

(3) The metro township council of a metro township that is included in a municipal services district:

(a) shall:

(i) by ordinance, provide for the manner in which a subdivision is approved, disapproved, or otherwise regulated;

(ii) review municipal administration, and, subject to Subsection (5), pass ordinances;

(iii) perform all duties that the law imposes on the council; and

(iv) elect one of its members to be chair of the metro township and the chair of the council;

(b) may:

(i) (A) notwithstanding Subsection (3)(c), appoint a committee of council members or citizens to conduct an investigation into an officer, department, or agency of the municipality, or any other matter relating to the welfare of the municipality; and

(B) delegate to an appointed committee powers of inquiry that the council considers necessary;

(ii) make and enforce any additional rule or regulation for the government of the council, the preservation of order, and the transaction of the council's business that the council considers necessary; and

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(iii) subject to the limitations provided in Subsection (5), take any action allowed under Section 10-8-84 that is reasonably related to the safety, health, morals, and welfare of the metro township inhabitants; and

(c) may not:

(i) direct or request, other than in writing, the appointment of a person to or the removal of a person from an executive municipal office;

(ii) interfere in any way with an executive officer's performance of the officer's duties;
or

(iii) publicly or privately give orders to a subordinate of the chair.

(4) A member of a metro township council as described in this section may not have any other compensated employment with the metro township.

~~[(5) The council of a metro township that is included in a municipal services district may not adopt an ordinance or resolution that authorizes, provides, or otherwise governs a municipal service, as defined in Section 17B-2a-1102, that is provided by a municipal services district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act.]~~

Section 2. Section **10-3c-202** is amended to read:

10-3c-202. Budget.

~~[A]~~ (1) Except as provided in Subsection (2), a metro township is subject to and shall comply with Chapter 6, Uniform Fiscal Procedures Act for Utah Cities.

(2) For a metro township that is included in a municipal services district, created in accordance with Title 17B, Chapter 2a, Part 11, Municipal Services District Act, the fiscal year for the metro township budget is the calendar year.

Section 3. Section **10-3c-203** is amended to read:

10-3c-203. Administrative and operational services -- Staff provided by county or municipal services district -- Recording of open meetings.

(1) (a) The following officials elected or appointed, or persons employed by, the county in which a metro township is located shall, for the purposes of interpreting and complying with applicable law, fulfill the responsibilities and hold the following metro township offices or positions:

(i) the county treasurer shall fulfill the duties and hold the powers of treasurer for the metro township;

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(ii) the county clerk shall fulfill the duties and hold the powers of recorder and clerk for the metro township;

(iii) the county surveyor shall fulfill, on behalf of the metro township, all surveyor duties imposed by law;

(iv) the county engineer shall fulfill the duties and hold the powers of engineer for the metro township; and

(v) subject to Subsection (1)(b), the county auditor shall fulfill the duties and hold the powers of auditor for the metro township.

(b) (i) The county auditor shall fulfill the duties and hold the powers of auditor for the metro township to the extent that the county auditor's powers and duties are described in and delegated to the county auditor in accordance with Title 17, Chapter 19a, County Auditor, and a municipal auditor's powers and duties described in this title are the same.

(ii) Notwithstanding Subsection (1)(b), in a metro township, services described in Sections 17-19a-203, 17-19a-204, and 17-19a-205, and services other than those described in Subsection (1)(b)(i) that are provided by a municipal auditor in accordance with this title that are required by law, shall be performed by county staff other than the county auditor.

(2) (a) Nothing in Subsection (1) may be construed to relieve an official described in Subsections (1)(a)(i) through (iv) of a duty to either the county or metro township or a duty to fulfill that official's position as required by law.

(b) Notwithstanding Subsection (2)(a), an official or the official's deputy or other person described in Subsections (1)(a)(i) through (iv):

(i) is elected, appointed, or otherwise employed, in accordance with the provisions of Title 17, Counties, as applicable to that official's or person's county office;

(ii) is paid a salary and benefits and subject to employment discipline in accordance with the provisions of Title 17, Counties, as applicable to that official's or person's county office;

(iii) is not subject to:

(A) Chapter 3, Part 11, Personnel Rules and Benefits; or

(B) Chapter 3, Part 13, Municipal Officers' and Employees' Ethics Act; and

(iv) is not required to provide a bond for the applicable municipal office if a bond for the office is required by this title.

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(3) The district attorney of the county in which a metro township is located may provide legal counsel to the metro township if the county and the metro township agree.

(4) The metro township may establish a planning commission in accordance with Section 10-9a-301 and an appeal authority in accordance with Section 10-9a-701.

(5) A municipal services district established in accordance with Title 17B, Chapter 2a, Part 11, Municipal Services District Act, and of which the metro township is a part, may provide staff to the metro township planning commission and appeal authority.

(6) Notwithstanding Title 52, Chapter 4, Open and Public Meetings Act, and Section 10-6-137:

(a) the county clerk may choose to not attend an open meeting of the metro township council; and

(b) if the county clerk does not attend an open meeting of the metro township council, the county clerk shall

~~(i) ensure that the chair of the metro township council or a designee of the county clerk, makes a recording of the meeting~~ in accordance with Section 52-4-203

~~(ii) prepare~~, **makes a recording of the meeting and prepares** written minutes of the meeting; and

~~(iii) within a reasonable time after the meeting, make public the recording described in Subsection (6)(b)(i) and the written minutes described in Subsection (6)(b)(ii).~~

~~[(6)]~~ (7) (a) This section applies only to a metro township in which:

(i) the electors at an election under Section 10-2a-404 chose a metro township that is included in a municipal services district and has limited municipal powers; or

(ii) the metro township subsequently joins a municipal services district.

(b) This section does not apply to a metro township described in Subsection (6)(a) if the municipal services district is dissolved.

Section 4. Section **17B-2a-1108** is amended to read:

17B-2a-1108. Municipality required to remit local option sales and use tax.

(1) (a) ~~[If, after incorporation, a municipal legislative body of a]~~ A municipality located in whole or in part within a municipal services district ~~[does not adopt and deliver a resolution to withdraw in accordance with Subsection 17B-1-502(3)(a)(iii), the municipality]~~ shall remit to the municipal services district:

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(i) an amount equal to the amount the municipality receives under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act[-]; and

(ii) an amount equal to the amount of transportation funds the municipality receives under Section 72-2-108.

(b) The municipality shall remit to the municipal services district the amounts required in Subsection (1)(a) within 30 days after the day on which the municipality receives the funds identified in Subsections (1)(a)(i) and (1)(a)(ii).

(2) For purposes of Subsection (1)(a)(i), the amount of local sales tax a municipality is required to remit to a municipal services district is an amount:

(a) determined after subtracting amounts required under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act, to be deducted from the amount a municipality would otherwise receive under Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and

(b) representative of only those taxes collected in the area of the municipality that is also located within the municipal services district.

(3) For purposes of Subsection (1)(a)(ii), the amount of transportation funds a municipality is required to remit to a municipal services district is an amount equal to the amount of class B and class C road miles in that part of the municipality located within the municipal services district divided by the total class B and class C road miles in the municipality.

(4) If the municipal legislative body of a municipality located in whole or in part within a municipal services district adopts and delivers a resolution to withdraw in accordance with Subsection 17B-1-502(3)(a)(iii), the municipality shall remit to the municipal services district the amounts described in Subsection (1) that relate to the period that the municipality is in the municipal services district, regardless of when the municipality receives those amounts.

Section 5. Section 52-4-203 is amended to read:

52-4-203. Written minutes of open meetings -- Public records -- Recording of meetings.

(1) Except as provided under Subsection (7), written minutes and a recording shall be kept of all open meetings.

(2) Written minutes of an open meeting shall include:

(a) the date, time, and place of the meeting;

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- (b) the names of members present and absent;
 - (c) the substance of all matters proposed, discussed, or decided by the public body which may include a summary of comments made by members of the public body;
 - (d) a record, by individual member, of each vote taken by the public body;
 - (e) the name of each person who:
 - (i) is not a member of the public body; and
 - (ii) after being recognized by the presiding member of the public body, provided testimony or comments to the public body;
 - (f) the substance, in brief, of the testimony or comments provided by the public under Subsection (2)(e); and
 - (g) any other information that is a record of the proceedings of the meeting that any member requests be entered in the minutes or recording.
- (3) A recording of an open meeting shall:
- (a) be a complete and unedited record of all open portions of the meeting from the commencement of the meeting through adjournment of the meeting; and
 - (b) be properly labeled or identified with the date, time, and place of the meeting.
- (4) (a) As used in this Subsection (4):
- (i) "Approved minutes" means written minutes:
 - (A) of an open meeting; and
 - (B) that have been approved by the public body that held the open meeting.
 - (ii) "Electronic information" means information presented or provided in an electronic format.
 - (iii) "Pending minutes" means written minutes:
 - (A) of an open meeting; and
 - (B) that have been prepared in draft form and are subject to change before being approved by the public body that held the open meeting.
 - (iv) "Specified local public body" means a legislative body of a county, city, ~~or~~ town, or metro township.
 - (v) "State public body" means a public body that is an administrative, advisory, executive, or legislative body of the state.
 - (vi) "Website" means the Utah Public Notice Website created under Section

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63F-1-701.

(b) Pending minutes, approved minutes, and a recording of a public meeting are public records under Title 63G, Chapter 2, Government Records Access and Management Act.

(c) Pending minutes shall contain a clear indication that the public body has not yet approved the minutes or that the minutes are subject to change until the public body approves them.

(d) A state public body and a specified local public body shall require an individual who, at an open meeting of the public body, publicly presents or provides electronic information, relating to an item on the public body's meeting agenda, to provide the public body, at the time of the meeting, an electronic or hard copy of the electronic information for inclusion in the public record.

(e) A state public body shall:

(i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes of an open meeting, post to the website and make available to the public at the public body's primary office a copy of the approved minutes and any public materials distributed at the meeting; and

(iii) within three business days after holding an open meeting, post on the website an audio recording of the open meeting, or a link to the recording.

(f) ~~(+)~~ A specified local public body shall:

~~(A)~~ (i) make pending minutes available to the public within 30 days after holding the open meeting that is the subject of the pending minutes;

~~(B)~~ (ii) ~~[subject to Subsection (4)(f)(ii),]~~ within three business days after approving written minutes of an open meeting, post to the website and make available to the public at the public body's primary office a copy of the approved minutes and any public materials distributed at the meeting; and

~~(C)~~ (iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

~~(ii) A specified local public body of a city of the fifth class or town is encouraged to comply with Subsection (4)(f)(i)(B) but is not required to comply until January 1, 2015.~~

(g) A public body that is not a state public body or a specified local public body shall:

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(i) make pending minutes available to the public within a reasonable time after holding the open meeting that is the subject of the pending minutes;

(ii) within three business days after approving written minutes, make the approved minutes available to the public; and

(iii) within three business days after holding an open meeting, make an audio recording of the open meeting available to the public for listening.

(h) A public body shall establish and implement procedures for the public body's approval of the written minutes of each meeting.

(i) Approved minutes of an open meeting are the official record of the meeting.

(5) All or any part of an open meeting may be independently recorded by any person in attendance if the recording does not interfere with the conduct of the meeting.

(6) The written minutes or recording of an open meeting that are required to be retained permanently shall be maintained in or converted to a format that meets long-term records storage requirements.

(7) Notwithstanding Subsection (1), a recording is not required to be kept of:

(a) an open meeting that is a site visit or a traveling tour, if no vote or action is taken by the public body; or

(b) an open meeting of a local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or special service district under Title 17D, Chapter 1, Special Service District Act, if the district's annual budgeted expenditures for all funds, excluding capital expenditures and debt service, are \$50,000 or less.

Section ~~53-6~~6. Section **53-2a-102** is amended to read:

53-2a-102. Definitions.

As used in this chapter:

(1) "Attack" means a nuclear, cyber, conventional, biological, act of terrorism, or chemical warfare action against the United States of America or this state.

(2) "Commissioner" means the commissioner of the Department of Public Safety or the commissioner's designee.

(3) "Director" means the division director appointed under Section 53-2a-103 or the director's designee.

(4) "Disaster" means an event that:

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(a) causes, or threatens to cause, loss of life, human suffering, public or private property damage, or economic or social disruption resulting from attack, internal disturbance, natural phenomena, or technological hazard; and

(b) requires resources that are beyond the scope of local agencies in routine responses to emergencies and accidents and may be of a magnitude or involve unusual circumstances that require response by government, not-for-profit, or private entities.

(5) "Division" means the Division of Emergency Management created in Section 53-2a-103.

(6) "Energy" includes the energy resources defined in this chapter.

(7) "Expenses" means actual labor costs of government and volunteer personnel, and materials.

(8) "Hazardous materials emergency" means a sudden and unexpected release of any substance that because of its quantity, concentration, or physical, chemical, or infectious characteristics presents a direct and immediate threat to public safety or the environment and requires immediate action to mitigate the threat.

(9) "Internal disturbance" means a riot, prison break, terrorism, or strike.

(10) "Municipality" means the same as that term is defined in Section 10-1-104.

~~[(10)]~~ (11) "Natural phenomena" means any earthquake, tornado, storm, flood, landslide, avalanche, forest or range fire, drought, or epidemic.

~~[(11)]~~ (12) "State of emergency" means a condition in any part of this state that requires state government emergency assistance to supplement the local efforts of the affected political subdivision to save lives and to protect property, public health, welfare, or safety in the event of a disaster, or to avoid or reduce the threat of a disaster.

~~[(12)]~~ (13) "Technological hazard" means any hazardous materials accident, mine accident, train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

~~[(13)]~~ (14) "Terrorism" means activities or the threat of activities that:

(a) involve acts dangerous to human life;

(b) are a violation of the criminal laws of the United States or of this state; and

(c) to a reasonable person, would appear to be intended to:

(i) intimidate or coerce a civilian population;

(ii) influence the policy of a government by intimidation or coercion; or

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(iii) affect the conduct of a government by mass destruction, assassination, or kidnapping.

~~[(14)]~~ (15) "Urban search and rescue" means the location, extrication, and initial medical stabilization of victims trapped in a confined space as the result of a structural collapse, transportation accident, mining accident, or collapsed trench.

Section ~~46~~7. Section **59-12-203** is amended to read:

59-12-203. County, city, town, or metro township may levy tax -- Contracts pursuant to Interlocal Cooperation Act.

(1) A county, city, town, or metro township may impose a sales and use tax under this part.

(2) ~~[(H)] The State Tax Commission shall treat a metro township that imposes a tax under this part[, the metro township is subject to the same requirements a city is required to meet] as a city~~ under this part.

(3) The State Tax Commission shall calculate the amount of a distribution to a metro township under this part in the same manner as the State Tax Commission calculates a distribution to a city under Section 59-12-205.

~~[(3)]~~ (4) (a) Except as provided in Subsection ~~[(3)(b) and notwithstanding any other provision of this part]~~ (4)(b), if a metro township imposes a tax under this part, the State Tax Commission shall distribute the ~~[revenues collected from the tax]~~ amount that the State Tax Commission calculates under Section 59-12-205 to the metro township.

(b) The State Tax Commission shall transfer the ~~[revenues collected within]~~ amount that would otherwise be distributed to a metro township under this part to a municipal services district created under Title 17B, Chapter 2a, Part 11, Municipal Services District Act, if the metro township:

(i) provides written notice to the State Tax Commission requesting the transfer; and

(ii) designates the municipal services district to which the metro township requests the State Tax Commission to transfer the revenues.

(4) A county, city, town, or metro township that imposes a sales and use tax under this part may:

(a) enter into agreements authorized by Title 11, Chapter 13, Interlocal Cooperation Act; and

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(b) use any or all of the revenue collected from the tax for the mutual benefit of local governments that elect to contract with one another pursuant to Title 11, Chapter 13, Interlocal Cooperation Act.

Section ~~{7}~~8. **Effective date.**

(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) Notwithstanding Subsection (1), the amendments to Sections 17B-2a-1108 and 59-12-203 in this bill have retrospective operation for the taxable year beginning on or after January 1, 2017.

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~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel†~~